

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Appln. No.: 10/647,255

Attorney Docket No.: Q76973

AMENDMENTS TO THE DRAWINGS

Submitted herewith please find one (1) sheet of replacement drawings in compliance with 37 C.F.R. § 1.84. The Examiner is respectfully requested to acknowledge receipt of these drawings.

The submitted drawing is intended to replace the drawing previously submitted.

Attachment: Replacement Sheets: One (1)

REMARKS

Applicant hereby cancels claims 10, 16, 36 and 42 without prejudice or disclaimer. Therefore, claims 1-9, 11-15, 17-35, 37-41, 43 and 44 are all the claims pending in the application.

Drawings

The drawing filed August 26, 2003 is objected to because the figure is not numbered and does not include the following reference signs mentioned in the description: Terminals 8a, 8b, and 8c. Applicant submits an amendment to the drawing and respectfully requests the Examiner to withdraw the objection.

Specification

Applicant amends the paragraph on page 7, lines 2-10 and page 7, lines 12-17. Accordingly, Applicant respectfully requests the Examiner to withdraw the objection.

Claim Rejections - 35 U.S.C. § 101

Claims 1-27 are rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Applicant amends claim 1 to recite "...a control module, to:...". Applicant directs the Examiner's attention to page 17, lines 7-11 of the originally filed specification which discloses that a control module can take the form of electronic circuits. Accordingly, Applicant submits that claim 1 is statutory and complies with § 101. Claims 2-27, which depend from claim 1, also comply with § 101 at least by virtue of their dependencies.

Claim Objections

In view of the amendments to claims 1, 6, 28 and 32, Applicant respectfully requests the Examiner to withdraw the objections.

Claim Rejections - 35 U.S.C. § 112

Claims 1-27, 30-44 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant amends claims 1, 2, 4-8, 11, 13, 15-17, 19, 30-34, 37, 39, 41 and 43. Applicant submits that 1-27 and 30-44 comply with § 112, second paragraph, and accordingly requests the Examiner to withdraw the rejection.

Claim Rejections - 35 U.S.C. § 103

Claims 1-14, 16, 17, 21-40, 42, and 43 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hagen (US 2002/0075844), in view of Yamaguchi (US 2002/0178365).

Applicant submits the following in traversal.

Claim 1

Without conceding on the patentability of unamended claim 1, Applicant amends the subject matter of claims 10 and 16 into claim 1 to recite at least “wherein said control module allocates at least two priority levels to the terminals for said allocation of resources of the local area network according to whether the terminals are classified in said first group or said second

group and automatically modifies an allocated priority level as a function of the available resources of said local area network.” Applicant submits that Hagen and Yamaguchi, alone or in combination, fail to disclose or suggest the above noted claim features for at least the following reasons.

The Examiner cites paragraphs [0112] and [0183] of Hagen as allegedly disclosing “modif[ying] an allocated priority level as a function of the available resources of said local area network” (see page 11 of the current office action). Specifically, the Examiner alleges that altering bandwidth allocation in paragraph [0112] and updating service plans in paragraph [0183] corresponds to the claimed “modif[ying] an allocated priority level”. Assuming *arguendo* that the updating service plan of Hagen corresponds to the claimed “modif[ying] an allocated priority level”, Applicant submits the Hagen fails to disclose or suggest “wherein said control module... automatically modifies an allocated priority level as a function of the available resources of said local area network”.

Instead, Hagen requires a subscriber to manually upgrade the service plan, for example, from a non-priority plan to a priority plan (see paragraph [0183], lines 22-25 of Hagen). In other words, when there is limited availability of the network’s bandwidth resources, a subscriber is notified by a registration page to manually upgrade his/her service plan (see paragraph [0183], lines 18-25 of Hagen). Therefore, even if assuming *arguendo* that updating service plans in paragraph [0183] of Hagen corresponds to the claimed “modif[ying] an allocated priority level”, Applicant submits that Hagen fails to disclose or suggest “wherein said control module...

automatically modifies an allocated priority level as a function of the available resources of said local area network.”

Additionally, Applicant notes that one of ordinary skill in the art would understand that a bandwidth is not a priority level and therefore, altering bandwidth allocation disclosed in paragraph [0112] of Hagen does not correspond to the claimed “modif[ying] an allocated priority level.” Yamaguchi does not make up for the above noted deficiencies of Hagen.

In view of the above, Applicant respectfully submits that claim 1 is patentable.

For reasons similar to those submitted for claim 1, Applicant respectfully submits that claim 28 is also patentable.

Claims 2-9, 11-14, 17, 21-27, 29-35, 37-40 and 43, which depend from claims 1 or 28, are patentable at least by virtue of their dependencies.

Since claims 10, 16, 36 and 42 are canceled without prejudice or disclaimer, Applicant respectfully submits that the rejection of claims 10, 16, 36 and 42 under § 103(a) is moot.

Claims 15, 18, 41, and 44 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hagen and Yamaguchi, in view of Immonen et al. (US 2002/0132611), hereinafter “Immonen”. Applicant submits the following in traversal.

Immonen does not make up for the above noted deficiencies of Hagen and Yamaguchi with respect to independent claims 1 and 8. Accordingly, claims 15, 18, 41 and 44, which depend from claims 1 or 28, are patentable at least by virtue of their dependencies.

Claims 19 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hagen and Yamaguchi, in view of Sisodia et al. (US 2003/0165128), hereinafter "Sisodia". Applicant submits the following in traversal.

Sisodia does not make up for the above noted deficiencies of Hagen and Yamaguchi with respect to independent claim 1. Accordingly, claims 19 and 20, which depend from claim 1, are patentable at least by virtue of their dependencies.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Siddharth A. Narayan/

Siddharth A. Narayan
Registration No. 66,730

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

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